

# Exhibit 107

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DEPOSITION OF MICKEY E. GUNTER, Ph.D.

TAKEN ON BEHALF OF THE PLAINTIFFS

AT 875 PERIMETER DR., MCCLURE HALL, ROOM 203.

MOSCOW - TDAHQ

SEPTEMBER 8, 2017, AT 10:09 A M

30 REPORTED BY:

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CSR 744 (ID), CCR 2750 (WA)

22 | Notary Public

25 Job No. 2689305

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1 THE DEPOSITION OF MICKEY E. GUNTER, Ph.D.,  
2 was taken on behalf of the PLAINTIFFS, on SEPTEMBER 8,  
3 2017, at UNIVERSITY OF IDAHO, 875 PERIMETER DR.,  
4 MCCLURE HALL, ROOM 203, MOSCOW, IDAHO, before M & M  
5 Court Reporting Services, Inc., by MICHAEL S. KUPLACK,  
6 Court Reporter and Notary Public within and for the  
7 State of Idaho, to be used in an action pending in the  
8 Superior Court of the State of California, County of  
9 Los Angeles, said cause being Case No. BC646315 in said  
10 Court.

11 AND THEREUPON, the following testimony was  
12 adduced, to wit:

13 MICKEY E. GUNTER, Ph.D.,  
14 having been first duly sworn to tell the truth, the  
15 whole truth, and nothing but the truth, relating to  
16 said cause, deposes and says:

## EXAMINATION

18 QUESTIONS BY MR. MAIMON:

19 Q. Good morning, Dr. Gunter.

20 A. Good morning, Moshe.

21 Q. My name is Moshe Maimon and I'm here to depose  
22 you in the Herford case on behalf of the plaintiff.  
23 It's my understanding that you've been retained as an  
24 expert in the Herford case. Is that correct?

25 A. Yes, sir.

1 Q. And by whom have you been retained?

2 A. Johnson & Johnson.

3 Q. This is a deposition that's taking place  
4 telephonically. You're at the University of Idaho in  
5 Moscow, Idaho; is that correct?

6 A. Yes, sir.

7 Q. You're in McClure Hall, Room 203?

8 A. That's correct.

9 Q. And is anyone there with you aside from the  
10 court reporter?

11 A. No, sir.

12 Q. Are you being paid for your time today?

13 A. Yes, sir.

14 Q. At what rate?

15 A. \$450 an hour.

16 Q. And is that payment going to go to you  
17 personally or does that go to your department at the  
18 university?

19 A. It goes to me personally.

20 Q. Is this considered a vacation day for you?

21 A. We don't get vacations. I mean, I'm on a  
22 nine-month contract, and academics don't get vacations  
23 but we are allowed to do --

24 Q. (Inaudible.)

25 A. I'm sorry.

1 A. Correct. That's what she told me.

2 Q. And --

3 A. And Samples J --

4 Q. Do you know that --

5 A. Go ahead.

6 Q. Do you know that Dr. Blount actually wrote  
7 letters to both Luzenac and lawyers for Johnson &  
8 Johnson referencing this article and telling them that  
9 there was asbestos in Johnson & Johnson talcs?

10 DEFENDANTS' COUNSEL: Objection. Basis, no  
11 foundation.

12 A. I've not seen that.

13 Q. (BY MR. MAIMON) The lawyers for Johnson &  
14 Johnson didn't give you the letter that Dr. Blount  
15 sent to their attorneys, telling them that, quote, "I  
16 believe that Johnson & Johnson Vermont talc contains  
17 trace amounts of asbestos"?

18 DEFENDANTS' COUNSEL: Objection. Form,  
19 foundation.

20 A. Again, I don't recall seeing that.

21 Q. (BY MR. MAIMON) What she describes on  
22 page 228 of her article with regard to Sample I would  
23 be consistent with asbestos, correct?

24 A. Yes. And samples --

25 Q. (Inaudible.)

1           A. But samples -- Just for the record, samples J  
2 through M were also from Windsor Minerals.

3           Q. Yeah, you understand those to be the talc ore  
4 from Windsor Minerals, J through M?

5           A. That's what she told me.

6           Q. Okay. And have you seen any documents from  
7 Johnson & Johnson which indicate where they -- you  
8 know, what they were from, what runs they were from  
9 and so forth?

10          A. No.

11          Q. Do you know which deposits among the Windsor  
12 mines samples J through M came from?

13                   DEFENDANTS' COUNSEL: Objection.

14                   Foundation, asked and answered.

15          A. Well, if it was '91 -- Well, again, it would  
16 have been before '91. I read somewhere that only the  
17 Hammondsville and the Argonaut Mines were cosmetic  
18 purposes. But it could have -- it could have been --  
19 This could have been Italy, also, but I don't know. I  
20 know what she told me.

21          Q. (BY MR. MAIMON) Okay. But you don't know,  
22 within the Windsor mines, which particular mine  
23 sourced samples J through M, correct?

24          A. Correct.

25          Q. Okay. And so it's true, is it not, that this

1 is a published article which shows asbestos in  
2 Johnson & Johnson talc products?

3 DEFENDANTS' COUNSEL: Objection. Form.

4 A. In that one particular sample.

5 Q. (BY MR. MAIMON) Yes?

6 A. Yes.

7 DEFENDANTS' COUNSEL: Same objection.

8 A. In that one --

9 Q. (BY MR. MAIMON) Okay. You also mentioned  
10 earlier, one of the first things, that you have  
11 Dr. Longo's report in this matter, correct?

12 A. Yes.

13 Q. And I'd like to know, similar to the questions  
14 that I asked you about Dr. Compton's report, do you  
15 have any criticism of the methodology that Dr. Longo  
16 utilized as described in his expert report?

17 A. Yes.

18 Q. Can you tell me what your criticisms are?

19 A. The main one is that he used -- did a heavy  
20 liquid separation and he used a density of 2.85; and  
21 based upon that, he then said that no anthophyllite  
22 would appear in the heavy portion because iron-free  
23 anthophyllite would have a density similar to 2.85. I  
24 disagree with that and -- because the density that I  
25 calculated for an iron-free anthophyllite is 3.02 and

1 another anthophyllite sample I had was 3.08. So, my  
2 biggest criticism --

3 Q. What were those densities, 3.02 and 3.08?

4 A. Yes.

5 Q. Go ahead.

6 A. My biggest criticism would be his assumption  
7 that none of the anthophyllite would be in the heavy  
8 portion based on the densities in anthophyllite. And  
9 also he found -- He has talc, which has a lower  
10 density, in some of his data.

11 So, that would be the biggest -- sorry, the  
12 biggest criticism.

13 Q. Okay. So, I'm talking about the -- maybe  
14 something different, and I'm sorry if you didn't  
15 understand. The method that he used, I'm not talking  
16 about his interpretation of the results or his  
17 assumptions. I understand that you have a -- that you  
18 disagree with his assumption that iron-free  
19 anthophyllite would have a density of 2.85 and  
20 therefore would not be revealed as present through  
21 this testing, correct?

22 A. Yes.

23 Q. Okay. The testing that he says that he did is  
24 testing that would show tremolite, correct?

25 A. That's what he states, yes.

1 Q. He bases this on the work of Dr. Blount,  
2 correct?

3 A. He bases the density separation, but then not  
4 the -- He uses an AHERA interpretation of a fiber and  
5 not Alice's interpretation of fibers and needles. So,  
6 he uses a different interpretation of what would be  
7 asbestos and what wouldn't be than Alice did.

8 Q. Okay. So, he performed a specific analysis,  
9 correct?

10 A. Yes.

11 Q. And then he got data from that analysis and he  
12 interpreted it a certain way, correct?

13 A. Yes.

14 Q. And one of the interpretations that he made  
15 was his counting, the way he counted the fibers or  
16 particles that he included in his report, correct?

17 A. Yes.

18 Q. And then another interpretation that he made  
19 was the -- where -- or what the density would be for  
20 iron-free anthophyllite, correct?

21 A. Correct.

22 Q. And you disagree with both of those, correct?

23 A. They're wrong.

24 Q. The choice of the analysis, by separating the  
25 heavier particles by the high density, is that, in

1 your mind, an invalid methodology?

2 A. No.

3 Q. Okay. You have a disagreement with Dr. Longo  
4 as to what the density would be for iron-free  
5 anthophyllite, correct?

6 A. Correct.

7 Q. His identification of tremolite, do you take  
8 issue with that?

9 A. Some of these could be tremolite to tremolite  
10 slash actinolite based on the iron content, but  
11 nothing significant, no.

12 Q. Okay. So, you don't take issue with his  
13 identification, mineralogical identification, of the  
14 tremolite, correct?

15 A. The tremolite and actinolite, correct.

16 Q. Okay. I take it that you do take issue with  
17 his choice to count certain particles as asbestos,  
18 correct?

19 A. Well, again, he's saying he uses Blount's  
20 method, but then he doesn't use the same counting  
21 criteria she did. And he's using the AHERA air method  
22 for his counting rules and not a bulk method, so....

23 Q. So, if you take a look, he describes using the  
24 Blount talc density heavy liquid preparation method,  
25 correct?

1 A. Yes.

2 Q. And he did that, correct?

3 A. Yes.

4 Q. Dr. Blount counted -- based on aspect ratios  
5 and for greater than 15 to 1, she counted those as  
6 fibers, and you agreed that those showed asbestos,  
7 correct?

8 A. Not necessarily. I mean, I have seen single  
9 particles of anthophyllite from the Vanderbilt  
10 deposit, and other places, that could have very high  
11 aspect ratios and not be -- not be from an asbestiform  
12 sample.

13 Q. I understand that you've done that in other  
14 circumstances, but you agreed with me that  
15 Dr. Blount's characterization of Sample I would be  
16 consistent with asbestos in the sample, correct?

17 A. It would be consistent with, again, the  
18 counting criteria and those sorts of things, yes.

19 Q. So, Dr. Longo, he used her method of sample  
20 preparation by heavy liquid, correct?

21 A. Correct.

22 Q. And do you have any criticism of how he did  
23 the preparation by the density heavy liquid method?

24 A. No.

25 Q. Okay. He then identified by TEM the particles

1 Q. (BY MR. MAIMON) Dr. Gunter, are you still  
2 there?

3 A. No. Yes, yes.

4 Q. I've got one more question, and hopefully it's  
5 only one. Have you ever analyzed a sample of cosmetic  
6 talc and determined that it had asbestos in it?

7 A. No.

8 MR. MAIMON: That's all I have.

9 (The deposition concluded at 3:14 p.m.)

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1 CERTIFICATE OF WITNESS  
2

3 I, MICKEY E. GUNTER, Ph.D., being first duly  
4 sworn, depose and say:

5 That I am the witness named in the foregoing  
6 deposition consisting of pages 1 through 169; that I  
7 have read said deposition and know the contents  
8 thereof; that the questions contained therein were  
9 propounded to me; and that the answers therein  
10 contained are true and correct except for any changes  
11 that I may have listed on the Change Sheet attached  
12 hereto.

13 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

14

15

16

MICKEY E. GUNTER, Ph.D.

17

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SUBSCRIBED AND SWORN to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 2017.

20

21

22

NAME OF NOTARY PUBLIC

23

NOTARY PUBLIC FOR \_\_\_\_\_

24

RESIDING AT \_\_\_\_\_

25

MY COMMISSION EXPIRES \_\_\_\_\_

REPORTER'S CERTIFICATE

I, MICHAEL S. KUPLACK, Certified Shorthand

Reporter, do hereby certify:

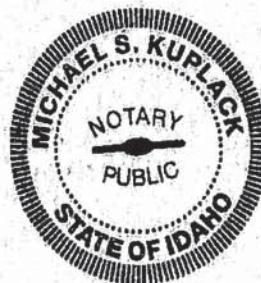
That the foregoing proceedings were taken before me at the time and place therein set forth, at which time any witnesses were placed under oath;

That the testimony and all objections made were recorded stenographically by me and were thereafter transcribed by me or under my direction;

That the foregoing is a true and correct record of all testimony given, to the best of my ability;

That I am not a relative or employee of any attorney or of any of the parties, nor am I financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal September 15, 2017.



Michael S. Kuplack  
MICHAEL S. KUPLACK, ID CSR NO. 744  
Notary Public

My Commission Expires August 13, 2019.